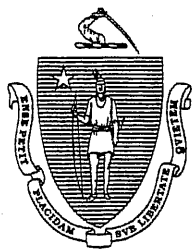


## Appendix 7.0-A

### MEPA Certificate and MOU Between the Cape Cod Commission and MEPA

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# *The Commonwealth of Massachusetts*

*Executive Office of Environmental Affairs*

*251 Causeway Street, Suite 900*

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GOVERNOR

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April 22, 2002

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS  
ON THE  
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Cape Wind Project  
PROJECT MUNICIPALITY : Barnstable, Yarmouth, and Federal  
Waters of Nantucket Sound  
PROJECT WATERSHED : Cape & Islands  
EOEA NUMBER : 12643  
PROJECT PROPONENT : Cape Wind Associates LLC  
DATE NOTICED IN MONITOR : November 24, 2001

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.03 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **requires** the preparation of an Environmental Impact Report (EIR).

## INTRODUCTION

### Project Description

As described in the Environmental Notification Form (ENF), the proposed project involves the development of 170 Wind Turbine Generators (WTGs) on a grid over approximately 26 square miles of sub-tidal area in Nantucket Sound known as Horseshoe Shoals<sup>1</sup>. The project will generate up to 420 megawatts (MW) of electricity. As currently proposed, each WTG will be 263 feet above mean sea level, with a total height up to 423 feet above mean sea level when rotor systems reach maximum height.

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<sup>1</sup> The proponent has also proposed an individual data collection tower for the preferred project area. This tower is located outside of Massachusetts waters and requires no cable connection to the mainland. The data tower project is not subject to MEPA. I therefore will not address issues with the data collection tower in this scope. I note that the Massachusetts Office of Coastal Zone Management ("CZM") is reviewing the data tower project under its federal Consistency Review authority.



The project also involves development of submarine cables for interconnection of the WTGs; an elevated electric service platform; and placement of two 115 KV submarine and underground cables providing the interconnection of the WTG array to existing NSTAR transmission lines on Cape Cod. The underground cables and portions of the submarine cables are located within Massachusetts or in the waters of the Commonwealth. The WTG array itself is located in federal waters outside the Territorial Sea (but within the contiguous zone).

#### Purpose of MEPA Review

This project represents one of the most ambitious offshore renewable energy projects ever proposed anywhere in the world. It holds out the promise of making Massachusetts a worldwide leader in offshore renewable energy production. Symbolically and substantively, it is an important step away from our society's crippling dependence on fossil fuels, with all their attendant environmental, social, economic, and political costs. The project would also fulfill a major purpose of the Commonwealth's Electric Utility Industry Restructuring Act (Chapter 164 of the Acts of 1997), which is designed in part to encourage the development of locally produced renewable energy and energy technologies. The project represents the hope for a cleaner and more sustainable energy supply through application of innovative and simple technology. It is my hope that future generations will look back at our decisions at this time as the beginning of a revolution in energy production and use in the Commonwealth. I wish to make it quite clear from the very beginning of the environmental review that this office strongly supports the goal of environmentally sensitive renewable energy.

Nonetheless, no matter how worthy a potential project may be, MEPA imposes a requirement on project proponents to understand and fully disclose the potential impacts of a project, both positive and negative; to study feasible alternatives to a project; and to avoid, reduce, or mitigate environmental impacts to the maximum extent feasible. I intend to conduct a rigorous review of environmental impacts, as laid out in this Certificate. Given the unprecedented nature and scope of the project, it is imperative that the EIR present alternatives and analyze impacts in a straightforward, transparent manner. As Secretary of Environmental Affairs, I have a duty to ensure that the MEPA review lays the foundations for a project that is well-planned, well-studied, and well-executed.

By any reckoning, the proposed project has generated significant public interest. Among them, the U.S. Army Corps of Engineers, the Executive Office of Environmental Affairs, and the Cape Cod Commission ("CCC") have held four well-attended formal scoping sessions, as well as informal meetings and two site visits. Few projects in the history of the MEPA program have generated so much written commentary. I have received thousands of letters and e-mails regarding the Cape Wind Project.

Many commenters have written in support and urge expedited approval on clean air and public policy grounds, while others have stated opposition and requested that I deny the project because of potential impacts on Nantucket Sound. Under MEPA, I do not have the authority to approve or deny the project. As part of the MEPA process, I will not make substantive judgments as to the proposed use of Horseshoe Shoals, nor can I act as an agent of appeal or affirmation of federal land use decisions. MEPA is not a zoning process, nor is it a permitting process. Rather, it is a process designed to ensure public participation in the state environmental permitting process, to ensure that state permitting agencies have adequate information on which to base their permit decisions and their Section 61 Findings, and to ensure that potential environmental impacts are described fully and avoided, minimized, and mitigated to the maximum feasible extent.

#### JURISDICTION AND PROCESS

##### Required Permits and MEPA Jurisdiction

The project is undergoing review pursuant to Section 11.03 (7)(b)(4) of the MEPA regulations, because the project involves development of a new electric transmission line greater than one mile in length with a capacity of 69 or more KV. The portion of the project within Massachusetts will require a 401 Water Quality Certificate and a Chapter 91 License from the Department of Environmental Protection (DEP); approval from the Massachusetts Energy Facilities Siting Board (EFSB); a construction permit from the Massachusetts Highway Department; and an Order of Conditions from the Barnstable and Yarmouth Conservation Commissions (and hence Superseding Order(s) from DEP if one or both local Order(s) were appealed). In addition, the Massachusetts Coastal Zone Management Office (CZM) will conduct Federal Consistency Review of the project, including the portions of the project located in federal waters. The project will require a Section 10 permit from the United States Army Corps of Engineers (the Army Corps is the lead agency in the federal environmental review).

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required state permits and that have the potential to cause significant Damage to the Environment. In this case, given the broad scope of the Chapter 91 and EFSB permits, MEPA jurisdiction effectively extends to all aspects of the project that are within Massachusetts. The MEPA mandatory EIR threshold related to production of 100 or more MW of electricity does not apply to the project because the WTG is located outside the Commonwealth in federal waters. The portion of the project subject to MEPA does not meet or exceed any mandatory EIR thresholds. Nonetheless, for the reasons discussed elsewhere in this Certificate, I find that the project has potentially significant environmental impacts, and I am thus exercising my discretion in requiring an EIR for the project.

Because MEPA (like the Cape Cod Commission Act) is the product of state law, not federal law, MEPA review (and by extension Cape Cod Commission review) technically applies only to those portions of the project that are located within Massachusetts, including its territorial waters (generally within 3 miles of the low water mark of the shore). I note that the proposed WTG array is located outside of Massachusetts and, therefore, is not subject to state regulatory requirements. CZM has broader jurisdiction because federal law (pursuant to the Coastal Zone Management Act) specifically delegates review authority over projects in federal waters to the Coastal Zone Management Office of the adjacent coastal state, provided that the state has a federally approved Coastal Zone Management Plan.

Nonetheless, despite the jurisdictional limitations on MEPA review, the proponent has voluntarily filed (within the meaning of Section 11.05 (8) of the MEPA regulations) an ENF to allow MEPA review of the entire project, including the WTG array. The proponent has also consented to a greatly extended ENF review period to allow for maximum public input into the scoping process, and to harmonize the timetables for the state and federal environmental reviews. I commend the proponent for these commitments. These commitments ensure that the impacts of the project will receive full disclosure in the state and regional review processes, and they ultimately will facilitate the Consistency Review, as information necessary for Consistency Review can be developed and refined in the EIR process.

The state permitting agencies (with the exception of CZM as described above) must base their permitting decisions and Section 61 Findings upon the portions of the project within Massachusetts. Therefore, in the scope below I have required that the proponent disaggregate the impacts of the project in the state territorial waters and overland from impacts that are occurring within federal waters, since the latter represent the aspects of the project that fall within the "voluntary" nature of MEPA review but lie outside the scope of state and local permitting. I have also included a separate alternatives analysis for state permitting purposes, relating solely to the cable route and its associated impacts.

#### Coordinated Review

In an addition to the EIR requirement, the project will undergo review pursuant to the National Environmental Policy Act (NEPA) in an Environmental Impact Statement (EIS) and review by the Cape Cod Commission (CCC) as a Development of Regional Impact (DRI). The proponent has committed to filing one set of documents that fulfill the requirements of NEPA, MEPA, and CCC. Both NEPA and MEPA regulations allow (and encourage) the preparation of joint EIS/EIR documents. MEPA and CCC have a formal process for coordinated EIR/DRI review pursuant to a Memorandum of Understanding between the agencies. As noted above, I believe coordinated review makes sense, both in terms of allowing for maximum public and agency understanding of the project and to ensure that review by regulatory agencies is as efficient as possible. I therefore hereby allow the preparation of a joint EIS/EIR/DRI for the proposed project. I anticipate that the Army Corps will soon release its scope to guide the preparation of the EIS. I have written this Certificate to harmonize the state requirements with anticipated federal requirements to the maximum feasible extent.

#### EIR SCOPE

##### General

The EIR should follow the general guidance for outline and content contained in Section 11.07 of the MEPA regulations as modified by this Certificate. Because of the coordinated review, I will allow the proponent some flexibility in data presentation. The EIR should contain a copy of each comment letter received, as listed at the end of this Certificate. The EIR need not reproduce every form letter; however, the EIR should include one "template" example of each category of form letter identified.

Alternatives

The EIR should include an evaluation of alternative feasible technologies for generating 420 MW of electricity, as well as an assessment of alternative locations for the proposed technology. I have received numerous comments requesting that the proponent be required to study a "universe" of alternative technologies and locations (or similar very broad language), including alternative renewable technologies, some of which have never been demonstrated to be technically or commercially feasible. While I believe a thorough screening analysis is called for, I do not see the need for an EIR-level alternatives analysis for the universe of potential alternatives. I note that several court cases involving NEPA have determined that an EIS need not study alternatives that are "only remote and speculative possibilities," otherwise the EIS process risks becoming an "exercise of frivolous boilerplate<sup>2</sup>." The same principle holds for MEPA review of an EIR as well. I am therefore restricting the MEPA alternatives analysis to those alternatives, discussed below, that meet a reasonable standard of feasibility.

Clearly, traditional methods of electricity generation are technically feasible alternatives (as evidenced by my recent reviews of several large gas-fired power plants on the Massachusetts mainland). The viability of gas fired electricity production is sufficiently demonstrated so as to warrant inclusion in the alternatives analysis. Note that I am not suggesting it is necessarily appropriate to require selection of a 420 MW gas-fired facility on the mainland as the preferred alternative, simply that it is appropriate to study the environmental impacts of such an alternative during the EIR process. Furthermore, nothing in this Certificate should be read to imply that I believe the capacity of the Massachusetts coast for wind power is limited to the scope of the current project. The point of the EIR alternatives analysis will be to vary the project parameters of reasonable feasible alternatives to disclose relative impacts so that the general public and state agencies can be informed of relative impacts. (An analysis of feasible alternatives will also prove necessary for CZM to make a determination regarding "coastal dependency.")

The EIR should therefore contain a "generic" analysis for a gas-fired mainland power plant with a capacity of 420 MW, to

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<sup>2</sup> See Natural Resources Defense Council v. Morton, 148 U.S. App.D.C. 5, 15-16, 458 F.2d 827, 837-838 (1972) and Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 551 (1978)

determine such parameters as air emissions, water use, fisheries, avian, visual, and other environmental impacts. The generic discussion should include a coastal gas-fired plant as well as an inland gas-fired plant. For comparative purposes, the EIR should also briefly discuss the impacts of an oil-fired 420 MW plant and a coal-fired 420 MW plant.

The EIR should also include a discussion of alternative locations for a wind facility. The EIR should contain a screening analysis of other potential sites (these may be located in mountainous areas of western Massachusetts, elsewhere on or off Cape Cod, or in other New England states and adjacent federal waters). The EIR should contain sufficient information to understand why the proponent has chosen Horseshoe Shoals and why other sites were deemed infeasible for this particular project. The EIR should contain any alternatives necessary for CZM to conduct its Consistency Review and to determine coastal dependency. I recommend that the proponent consult with CZM to determine the range of alternatives necessary. The EIR should also include any alternatives deemed necessary for study by the federal government as part of the NEPA review.

The EIR should include an analysis of alternative routes for the submarine and underground cable for the portion of the route within Massachusetts or its coastal waters. This analysis should assume the proponent's preferred location in Horseshoe Shoals for the WTG array. The goal of this analysis will be to provide relevant information for state permitting agencies with Section 61 responsibilities for the project. The analysis should demonstrate that the cable routing minimizes impacts on benthic resources, water quality, submerged aquatic vegetation, and the shoreline environment at the landfall site. The EIR should also demonstrate that the overland route generally minimizes impacts, particularly construction impacts on wetlands and sensitive receptors along the route.

The EIR should also include any alternatives analysis required by the 401 Water Quality Certification process, and any other alternatives analysis required for state permitting purposes.

#### Permitting and Planning Consistency

The EIR should include a brief discussion of each state permit or agency action required for the project. The EIR should demonstrate that the project could meet any applicable performance standards.



As noted above and in the comments from legislative Chairpersons of the Joint Committee on Government Regulations and the Joint Committee on Energy, the project fulfills an important goal of the 1997 Electric Utility Industry Restructuring Act. The EIR should briefly address the goals and requirements of this landmark legislation. The EIR should also address consistency with other state policies concerning energy and sustainability, including the provisions of Executive Order 385 (Planning for Growth). The EIR should also discuss consistency with any local or regional open space or growth plans (I anticipate that the DRI portion of the coordinated document will fulfill the requirement to analyze consistency with local/regional plans.)

### Environmental Impacts

As noted above, the impacts from the array of WTGs within the proponent's preferred location lie outside the boundaries of the Commonwealth. I will therefore defer the detailed scoping of environmental issues associated with the WTG array itself (e.g., the necessity for detailed mapping of the Horseshoe Shoals substrate or the use of specific technology to track bird usage of the area) to the federal government. However, the EIR should address the issues outlined below, to the extent that these issues are not addressed in the federal scope. (Of course, the EIR should also address any impacts in any of the following categories that fall within the jurisdiction of the Commonwealth, regardless of the requirements of the federal scope.)

### Avian Impacts

The EIR should include a thorough assessment of impacts to birds. If the proponent prepares a formal risk assessment, any subjective inputs should be clearly identified and appropriate sensitivity analyses included.

The ENF claims that impacts to birds from the proponent's preferred alternative should prove minimal, and that bird use of the area is low. However, these conclusions seem premature, and the EIR should contain much greater analysis to support the conclusions drawn. The EIR should focus on impacts to three categories of birds: migratory songbirds, wintering seaducks, and rare and endangered birds including Roseate and Common Terns and Piping Plovers.<sup>3</sup>

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<sup>3</sup> The Roseate Tern is endangered at both the state and federal level. The Piping Plover is threatened at both the state and federal level. The Common Tern is a state Species of Special Concern.

There are few operational offshore WTG arrays in the world, and none nearly the size of the proposed project. Therefore, there is a considerable amount of uncertainty in gauging potential impacts on birds. It is thus essential that the EIR present as much pre-construction data as possible on the spatial and temporal characteristics of avian activity in the Horseshoe Shoals area. The EIR should also present enough information on other alternatives studied to enable a meaningful comparison of impacts among the alternatives studied (I recognize that full-scale long-term study of all potential alternative sites may not prove feasible).

Since the WTG array is located outside of the boundaries of Massachusetts, it is highly unlikely that the project would result in the "take" of a state-listed species within the meaning of the Massachusetts Endangered Species Act. Nonetheless, I am concerned about potential impacts to rare Massachusetts birds. I note that the EIS will include a biological assessment for purposes of the federal Endangered Species Act (ESA). Since the Common Tern is not a federally listed species, the ESA assessment may not include impacts to the Common Tern. I request that the proponent include a comparable biological assessment for the Common Tern in the EIR.

The Massachusetts Audubon Society has noted a particular concern for heightened mortality from unusual events, such as storms. The EIR should develop potential methods of assessing impacts from such events, and consider a range of management responses to reduce bird mortality.

The EIR should also assess impacts to birds from lighting of the WTG array (see below under visual impacts for further discussion of lighting impacts). The EIR should develop a monitoring plan to gauge impacts post-construction, and develop appropriate action thresholds and mitigation if monitoring reveals a problem.

#### Fisheries Impacts

The EIR should include an assessment of impacts on fisheries (both commercial and recreational), with particular focus on potential impacts to fisheries habitat. The EIR should also assess potential indirect impacts caused by changes in water movement and sediment transport from placement of the WTG monopiles. The EIR should disclose whether armoring is proposed at the base of monopiles, and should evaluate potential impacts (both positive and negative) from the introduction of these "artificial reefs" in the Horseshoe Shoals area.

The EIR should describe existing habitat conditions in Nantucket Sound, and identify fish species and types expected to occur in the project area. The EIR should also describe the temporal characteristics of the species present (i.e., what life stages of the various species are likely to be encountered, and at what times of year). The EIR should evaluate the potential impacts of the WTG array and associated cables (construction, operation, and maintenance) on benthic habitat and species composition and relative abundance in the project area. This analysis should include any impacts related to specific life stages of effected species.

### Visual

The visual impacts of the project have been mentioned more than any other issue among comments received in opposition. Even many comments strongly supportive of the project recognize the change in the appearance of Nantucket Sound if the project proceeds at the proposed location. (Whether the WTG array will be beautiful or ugly has been hotly debated, but such a subjective issue lies beyond the scope of the environmental review process.)

The ENF includes visual projections from several vantage points on the Cape and Islands. The Massachusetts Historical Commission (MHC) has identified numerous historic resources within the project viewshed. The resources are sufficiently well spaced and geographically representative of the project area as a whole such that analyzing the visual impacts on historic resources will capture a good sense of the overall visual impacts of the project. Therefore, the EIR should include a visual assessment (including additional computer-generated photographic simulations) for the locations specified in the MHC comment letter, including:

- The Cotuit, Wianno, Centerville, Craigville, and Hyannis Port districts in Barnstable
- The South Yarmouth/Bass River Historic District in Yarmouth
- Monomoy Point Light in Chatham
- Edgartown Village Historic District, Cape Pogue Light, and Edgartown Harbor Lighthouse in Edgartown
- Martha's Vineyard Campground Historic district and East Chop in Oak Bluffs

- Nantucket Island National Historic Landmark, including Nantucket Village, Crooked Record, Monomoy and Wocuwinet areas, and the Nantucket Cliffs
- Tuckernuck Island

In the case of historic districts, the EIR need not analyze visual impacts from every individual property within the district, but should select a representative site within the district that has an unobstructed view of the WTG array relative to the other properties in the district. For districts and individual properties with frontage along the water, the simulations should occur as viewed from the water's edge looking toward the WTG array.

The EIR should also include an analysis of visual impacts from lighting. The EIR should discuss any federal lighting requirements (particularly requirements of the Federal Aviation Administration and United States Coast Guard). The EIR should also discuss whether any flexibility exists in terms of lighting colors, intensity, orientation, and/or flash frequency and duration. The EIR should evaluate any trade-offs between safety considerations and visual impacts on Massachusetts landforms (as well as impacts on birds, per the above discussion).

#### Noise

The EIR should include an analysis of noise impacts from the project. The EIR should analyze whether noise from the project (as measured on the A-weighted scale and by octave bands) will be measurable above background noise from the nearest representative locations along the south coast of Barnstable and Yarmouth and the east coast of the Vineyard. The EIR should also model noise impacts as measured from the base of the monopiles. For informational purposes, the EIR should also address the ability of the project to meet the performance standards contained in the DEP Noise Policy (DAQC Policy 90-001).

The EIR should also evaluate the potential impacts of underwater noise and vibrations from the WTG array, with analysis of potential biological and ecological effects from a change in the noise environment.

Rare Species

In addition to potentially effecting rare birds, the project may have impacts on the habitat of the Grey Seal, a state Species of Special Concern. The EIR should discuss potential impacts on the Grey Seal, and any other potential impacts on marine mammals, including the several species of state-endangered and federally-endangered whales known to transit Nantucket Sound.

Land Alteration

The EIR should quantify the amount of land disturbed, both land under water/salt marsh and uplands/inland wetlands. The EIR should discuss the resources present in lands proposed for alteration, including benthic resources, archaeological resources, and vegetation.

Wetlands/Drainage

The EIR should include a reasonably scaled map that delineates wetland boundaries and buffer zones present in the project area. The plans should also note any applicable local buffer zone requirements. The EIR should explain the significance of each wetland area to the interests enumerated in the Wetlands Protection Act. For each alternative, the EIR should quantify the amount of direct wetland alterations proposed. Eelgrass beds are present in Lewis Bay near the proposed cable route. The EIR should include a demonstration that the proposed routing avoids or minimizes impacts to eelgrass beds and other submerged aquatic vegetation.

Water Quality

The EIR should address the water quality impacts of the project, including impacts from the proposed jet plow method of embedding the submarine cables. The EIR should also discuss impacts at the land fall site, and maximize the use of horizontal directional drilling in this area to minimize impacts. The EIR should also address any informational requirements of the Water Quality Certification process.

Chapter 91/Public Trust

The EIR should include an analysis of the project impacts on lands subject to the Massachusetts Public Trust Doctrine. The document should discuss potential impacts on navigation and

anchorage within the state Territorial Sea, and should discuss any impacts on public access to Chapter 91 lands.

The submarine cables qualify as an infrastructure crossing facility under the state Waterways Regulations. DEP must consider an infrastructure crossing to be non-water dependent (and thus categorically prohibited) under the Waterways Regulations unless I make a determination, as part of the EIR review, that the cable cannot reasonably be located or operated away from tidal or inland waters (see 310 C.M.R. 9.12(2)(d)). The EIR should therefore include sufficient information for me to make a determination pursuant to the applicable regulations.

The EIR should also discuss any federal public trust implications of the project. The EIR should include discussion of impacts to recreational/commercial fishing and boating, and public access in general, in the area proposed for the WTG array.

#### Federal Consistency

As noted above, CZM jurisdiction extends over all aspects of the project. The EIR should address the concerns of CZM, and provide sufficient information to facilitate the federal Consistency Review. The EIR should also address the applicable specific policies of the Massachusetts Coastal Zone Management Plan, including: Energy Policy #1; Habitat Policy #1; Coastal Hazard Policies #1 and #2; Ports Policy #3; Public Access Policy #1; Ocean Resources policies #1, #2, and #3; and Growth Management Principle #1.

#### Historic/Archaeological Impacts

As noted above under visual impacts, the EIR should assess visual impacts on the various historic districts and properties identified by MHC in the project viewshed. In addition, the EIR should evaluate any impacts on historic resources along the overland cable route.

Underwater areas of the proponent's preferred project area (and potentially some alternative areas) have high sensitivity for archaeological resources. The EIR should analyze potential impacts on underwater archaeological resources (both shipwrecks and now-submerged prehistoric cultural artifacts). I strongly recommend that the proponent consult with MHC and the Massachusetts Board of Underwater Archaeological Resources to develop an appropriate scope for these studies.

Decommissioning Plan

The EIR should include a plan to remove the turbines, towers, cables, and other infrastructure in the event that the project ceases operation. The EIR should discuss the funding mechanism for the decommissioning plan, and should outline the steps that would be taken to ensure minimization of environmental impacts during removal of structures.

Construction Period

The EIR should include an analysis of construction period impacts, including impacts at the landfall site and impacts associated with the proposed jetplow trenching method. The EIR should address construction impacts from the overland route as well, and address any concerns of the Massachusetts Highway Department for the work done within the state highway layout.

Comprehensive Environmental Monitoring Program

Given the project's uniqueness, a considerable degree of uncertainty exists surrounding project impacts post-construction. To obtain meaningful data on impacts (and to aid in potential future environmental reviews of offshore WTG arrays both here and elsewhere), the EIR should outline a Comprehensive Environmental Monitoring Program (CEMP). For a good recent example of the structure and goals of a CEMP, I note the ongoing development of a CEMP for the Maritimes/Hubline Project (EOEA #12355).

Comments and Circulation

The EIR should include a copy of each comment received. The EIR need not reproduce every form letter, but should include one "template" from each form letter category noted below. The EIR should respond to the substantive comments received, including the substantive issues raised in the form letters. The proponent should circulate a hard copy of the EIR to each state agency from which the proponent will seek permits or approvals. The proponent should also circulate a copy of the EIR to those submitting individual written comments, as listed below.

To save paper and other resources, I will allow the proponent to circulate the EIR in CD-ROM format to individual commenters, although the proponent should make available a reasonable number of hard copies available on a first come, first served basis, to accommodate those without convenient access to a computer. I do not consider those who submitted form letters to be "commenters"

within the meaning of Section 11.16(3) of the MEPA regulations. Nevertheless, in the interest of broad public dissemination of information, the proponent should send a notice of availability of the EIR (including relevant comment deadlines, locations where hard copies may be reviewed and electronic copies obtained, and appropriate addresses) to those who submitted form letters, if (e-mail) addresses are available. This notification may take the form of electronic notification, as most form letters were submitted via e-mail.

### Mitigation

The EIR should include a summary of all mitigation measures to which the proponent has committed. The mitigation summary should serve to form the basis of the proposed Section 61 Finding to be presented in the Final EIR.

April 22, 2002

Date



Bob Durand

Comments received (continues on following pages):

12/07/01 Cotuit-Santuit Civic Association  
12/10/01 Kate Warner  
12/11/01 David Cleveland  
12/11/01 Amy Vince  
12/11/01 Carli Bertrand  
12/11/01 Jaci Barton  
12/11/01 James Bodurtha  
12/12/01 Ed Sanchez  
12/12/01 Larry Rosenberg  
12/12/01 Deborah James  
12/12/01 Hamilton Shepley  
12/14/01 Massachusetts Audubon Society  
12/14/01 Eleanor Tillinghast  
12/15/01 Dianne James  
12/15/01 Jason Hill  
12/15/01 Keith Kesten  
12/15/01 Michael Benoit  
12/16/01 Denise Geoffrion Devlin  
12/16/01 Gale Klun  
12/17/01 Greenpeace  
12/17/01 Senator Robert O'Leary



12/17/01 Barnstable Town Council  
12/17/01 Ethel Conley  
12/17/01 Linda Avard Cirrone  
12/17/01 James Mitchell  
12/17/01 Charles Desaulniers  
12/17/01 Harold and Dorothy O'Connell  
12/17/01 Figawi Inc.  
12/18/01 Massachusetts Aeronautics Commission  
12/18/01 David and Donna Gazaille  
12/18/01 Susan Campbell  
12/18/01 Ted Kirchner  
12/18/01 Benjamin Baxter  
12/18/01 Rosemary Kverek  
12/19/01 Massachusetts Board of Underwater Archaeology  
12/19/01 Alan and Janice Granby  
12/19/01 Thomas Knight Burgess  
12/19/01 David Akin  
12/19/01 Maureen Dunning  
12/19/01 Robert Shanahan Jr.  
12/19/01 Robert Aron  
12/19/01 William Mumford  
12/19/01 Kevin Senie  
12/19/01 AlphaGary  
12/19/01 John Egan  
12/19/01 Francis Lowell Jr.  
12/19/01 Self Reliance  
12/19/01 Nola Assad  
12/19/01 Robert Frazee  
12/19/01 Massachusetts Highway Department  
12/19/01 Massachusetts Division of Energy Resources  
12/19/01 Representative Matthew Patrick  
12/19/01 Martin Schedlbauer  
12/20/01 Marion Harcourt  
12/20/01 Harry and Margaret van Sciver  
12/20/01 Robert and Evelyn Barker  
12/20/01 Johflo4@cs.com  
12/20/01 Mass Energy Consumers Alliance  
12/21/01 Crosby Yacht Yard Inc.  
12/21/01 Charles Lowell  
12/21/01 Daniel Prowten  
12/21/01 Cape Clean Air  
12/21/01 Kenneth Molloy  
12/21/01 Harry Dodson  
12/21/01 Massachusetts Joint Committee on Government Relations  
and Joint Committee on Energy (Senators Morrissey, Fargo  
and Representatives Bosley, Binienda)  
12/23/01 Richard and Rita Gollin

12/24/01 Town of Barnstable Conservation Commission  
12/24/01 Maura Harway and Richard Mark  
12/24/01 Kathryn Kleekamp  
12/24/01 Kevin Flannery  
12/24/01 Susan Doliner  
12/24/01 Donald Schwinn  
12/26/01 Massachusetts Natural Heritage and Endangered Species  
Program  
12/26/01 Joel Fetter  
12/26/01 MB Hurley  
12/26/01 William Nye  
12/26/01 Vernon & Barbara Brown  
12/26/01 Iain Watt  
12/26/01 Dan Bakal  
12/26/01 Arbie Aircraft Leasing, Inc.  
12/26/01 Jaci Barton  
12/26/01 Richard Sellars  
12/26/01 Ernest Huber  
12/26/01 Rene L. Poyant Inc.  
12/26/01 Katy Rankin  
12/26/01 A.F. Premo  
12/26/01 Elizabeth Boyle  
12/26/01 Three Bays Preservation Inc.  
12/26/01 Paul Redlund  
12/26/01 Nikki Descoteaux  
12/27/01 U.S. National Marine Fisheries Service  
12/27/01 Mr. And Mrs. Rosenblad  
12/27/01 Nantucket Planning and Economic Development Commission  
12/27/01 The Cape Light Compact  
12/28/01 Massachusetts Historical Commission  
12/28/01 Department of Environmental Protection SERO  
12/31/01 Union of Concerned Scientists  
12/31/01 Jim and Glenda Manzi  
12/31/01 Jeanne Carens  
12/31/01 Jay Cashman, Inc.  
12/31/01 Competitive Power Coalition of New England, Inc.  
01/02/02 New Hampshire Department of Environmental Services  
01/02/02 New Hampshire Governor's Office of Energy and Community  
Services  
01/02/02 John Cramer Jr.  
01/02/02 Association for the Preservation of Cape Cod Inc.  
01/02/02 Charles Kleekamp  
01/02/02 Liz Cramer  
01/02/02 James Bodurtha  
01/02/02 Eleanor Sterling  
01/02/02 Amy Collings  
01/02/02 Christopher Powicki

01/03/02 Karen Goggins  
01/03/02 Charles Stewart Goodwin  
01/04/02 Peter Hickman  
01/04/02 Rachel Pachter  
01/07/02 Leona Godspeed  
01/08/02 American Lung Association of Maine  
01/09/02 Massachusetts Division of Marine Fisheries  
01/09/02 Spillane and Spillane LLP  
01/09/02 Mark Galkowski  
01/09/02 Milton Hirshberg  
01/09/02 Patricia Diehl  
01/10/02 U.S. Fish and Wildlife Service  
01/10/02 Dan Clark  
01/11/02 Christopher Page  
01/11/02 Marketing International Inc.  
01/14/02 Carolyn Crowell  
01/15/02 Osterville Village Association  
01/20/02 Anelia and James Adams  
01/20/02 Mashpee Board of Selectmen  
01/22/02 Lesley Miller  
01/22/02 Paul Canniff  
01/22/02 Thompson Island Outward Bound Education Center  
01/22/02 The McPheeters family  
01/22/02 Alison Violette  
01/23/02 Ernest Valerio  
01/23/02 Rob Garrison  
01/24/02 Elaine and Bill Dwyer  
01/25/02 Massachusetts Fisherman's Partnership  
01/25/02 Anja Cook  
01/25/02 Town of Rumford ME Town Manager  
01/27/02 D.A. Qunicy  
01/28/02 Clifford Adams  
01/28/02 Lew Collie  
01/28/02 M.F. Gibson  
01/28/02 Dan Healy  
01/30/02 Craig Marquette  
01/30/02 Joseph Graham  
01/30/02 Robert Perry  
01/30/02 Jennifer Avalon  
01/31/02 Tim Woodall  
01/31/02 C.H. Newton Builders Inc.  
01/31/02 Tom and Cindy Brunk  
02/04/02 Cape Cod Plastic and Hand Surgeons Inc.  
02/04/02 Save Popponesset Bay  
02/05/02 Woods Hole Group  
02/11/02 Murray Glusman  
02/20/02 Audrey Schulman

02/25/02 Janice Greenwood  
02/26/02 Peter Sutherland  
02/26/02 Massachusetts Audubon Society  
02/27/02 Town of Mashpee Selectmen  
02/28/02 RI Senator William Enos  
03/01/02 Alan Hanscom  
03/04/02 Paul Zoino and family  
03/04/02 William Potter  
03/05/02 Otis & Ahearn Real Estate  
03/06/02 Alliance to Protect Nantucket Sound  
03/06/02 James Malachowski  
03/06/02 transcript of federal scoping session, Boston  
03/07/02 transcript of federal scoping session, Yarmouth  
03/10/02 Marguerite Hutcheson  
03/11/02 Kellie Hoyt  
03/11/02 Representative Paul Demakis  
03/12/02 John Pagini  
03/13/02 Michael McElhaney  
03/13/02 Chris Cheronis  
03/13/02 Chris Stimpson  
03/13/02 Amanda McElhaney  
03/22/02 Representative Frank Smizik  
03/22/02 Teresa Cetto  
03/25/02 Christopher Ellis  
03/25/02 Everett Horn  
03/27/02 HealthLink  
03/27/02 Nicholas Mimken  
03/27/02 Representative Robert Koczera  
03/27/02 Heinz Werner  
03/27/02 Jane Walton  
03/29/02 Joseph Dunn  
03/29/02 James Bodurtha  
04/01/02 Joan Doliner  
04/01/02 Michael Doliner  
04/01/02 Buzzards Bay Action Committee  
04/01/02 Michael Egan  
04/01/02 Clayton Lang  
04/01/02 Peter Gay  
04/02/02 Masspirg  
04/02/02 Charles Dragon  
04/02/02 Kenneth Molloy  
04/02/02 William Gillitt  
04/03/02 Althea Chen  
04/03/02 Joan Jolley  
04/03/02 Mary Fitzhugh  
04/03/02 Daniel Ferreira  
04/03/02 Lisa Dupill

04/04/02 I.C.T. Nisbet & Company  
04/04/02 TPI Composites Inc.  
04/04/02 John Kiley  
04/04/02 Bob Davis  
04/04/02 Paul Cochrane  
04/04/02 Nancy and John Odell  
04/04/02 Paul Cain  
04/05/02 Coastal Zone Management Office  
04/05/02 Turil Cronburg  
04/05/02 Julianne Bridgeman  
04/05/02 Jeffrey Plate  
04/05/02 Frank Facchetti  
04/05/02 Anne Dudfield  
04/05/02 Jonathan Provost  
04/05/02 Conservation Law Foundation  
04/06/02 David Harrison  
04/06/02 Hilda Perlitsh  
04/08/02 Cape Cod Commission  
04/08/02 Nantucket Planning and Economic Development Commission  
04/08/02 Snow & Thomson Insurance Agency Inc.  
04/08/02 Toxics Action Center  
04/08/02 Barbara Gookin  
04/08/02 Northeast Sustainable Energy Association  
04/08/02 Cape Cod Marine Trades Association  
04/08/02 Pete Way Jr.  
04/08/02 Senator Robert O'Leary and Representative Eric  
Turkington  
04/08/02 Alliance to Protect Nantucket Sound  
04/09/02 Crosby Yacht Yard, Inc.  
04/09/02 SouthCoast emPOWERment Compact, Inc.  
04/10/02 U.S. Environmental Protection Agency  
04/10/02 American Lung Association of Massachusetts  
04/10/02 Woods Hole Group  
04/11/02 Jason Roberts  
various form letters as follows:  
dates

- "I object..."
- "I am opposed..."
- "I do not approve..."
- "Public Comment Period"
- "Wind Energy" (postcards)
- "I support..."
- "Clean air and safe energy are priorities"



Nov-06-01 16:21

From-CAPE COD COMMISSION

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T-606 P.14/15 F-067

MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CAPE COD COMMISSION AND  
OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS

In accordance with the Massachusetts Environmental Policy Act, G.L. c. 30, ss. 61 - 62H (MEPA), the Secretary of Environmental Affairs (the Secretary) has the authority to require environmental impact review of certain development projects receiving state financial assistance or requiring state permits. This review is carried out by the MEPA Unit within the Secretary's office, in accordance with regulations promulgated at 301 CMR 11.00 et seq. In accordance with the Cape Cod Commission Act (the Act), Chapter 716 of the Acts of 1989, as amended, the Cape Cod Commission (Commission) has the authority to review and regulate Developments of Regional Impact (DRIs). This review is carried out by the Commissioners and the Commission staff, in accordance with Administrative and Enabling regulations.

The environmental review processes of the Commission and the MEPA Unit are, in some instances, overlapping. For example, the Act states that any proposed development for which the Secretary requires the preparation of an Environmental Impact Report (EIR) shall be deemed a DRI and will therefore be subject to review by the Commission. Any project for which an Environmental Notification Form (ENF) must be filed pursuant to MEPA may be deemed by the Commission to be a DRI and therefore subject to review by the Commission.

The environmental review procedures of the Secretary and the Commission are similar. Both involve notification of proposed projects through publication in a local newspaper, a public meeting or meetings, and opportunities for comment by state and local officials and interested parties.

THEREFORE, given the extensive overlap of the statutory responsibilities of the Commission and the Secretary with respect to development on Cape Cod, and in order to establish a coordinated review process for development projects that are subject to review pursuant to the Act and to MEPA, the Secretary and the Commission hereby enter into this MEMORANDUM OF UNDERSTANDING.

1. At the election of the project proponent, projects that are subject to MEPA and deemed to be DRIs pursuant to the Act may be subject to a Joint Review Process (JRP). The JRP is a voluntary process by which the Commission and the MEPA Unit will coordinate review of DRIs. Developers will have the option of participating in the JRP when they know or have reason to believe that a project will require review by both agencies.

2. The procedure for the JRP is set forth in Attachment A hereto. It provides for a single initial newspaper notice of environmental review by the Commission and the MEPA Unit, use of the ENF with supplemental pages as the Commission application, a joint MEPA scoping session/Commission public hearing, and an environmental



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review document designed to address the concerns of both agencies. In order to participate in the JRP, the applicant must agree that if an EIR is required by the Secretary, it will address issues of concern to both MEPA and the Commission.

3. Participation in the JRP does not guarantee approval of a project by the Cape Cod Commission or certification of an EIR by the Secretary. Through its public hearing process, the Commission may address issues outside of the scope of the EIR. Applicants should also be aware that regularly required state and local approvals will be necessary in addition to Commission and MEPA approvals.

4. The Commission and the MEPA Unit will, by means of the Environmental Monitor, The REPORTER (the Commission's publication) and other appropriate publications or other mechanisms, publicize the availability of the JRP.

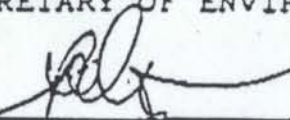
11.25.91

DATE

SUSAN F. TIERNEY  
SECRETARY OF ENVIRONMENTAL AFFAIRS

11/21/91

DATE

  
RICHARD ARMSTRONG, CHAIR  
CAPE COD COMMISSION

## ATTACHMENT A

## Procedure for Joint Review Process (JRP)

The applicant meets informally with MEPA and/or CCC to discuss joint review process. If the applicant chooses to participate in the joint review process, the following procedure applies:

1. Applicant fills out ENF and supplemental pages for CCC. Copies of the ENF and supplemental CCC pages will be available at both the CCC and the MEPA offices.
2. Applicant consults with MEPA staff and CCC staff and agrees upon a future time for the joint MEPA/CCC scoping session/public hearing. The scoping session/public hearing must be held within 20 days of publication of the ENF in the Environmental Monitor. MEPA staff coordinates with CCC staff regarding publication in a local newspaper of the scoping session/public hearing.
3. Joint CCC/MEPA notice is published in a local newspaper announcing the date of the public hearing/scoping session. Notice is published prior to publication of the ENF in the Monitor.
4. Applicant files the ENF with MEPA and the ENF with supplemental pages with the Commission. Date of public hearing/scoping session is indicated on the first page of the ENF, so that it will appear in the Environmental Monitor. Applicant agrees in writing that if an EIR is required, it will cover issues of concern to and within jurisdiction of both MEPA and the Commission.
5. ENF is published in the Monitor.
6. Scoping session/public hearing is held within 20 days of publication of ENF in the Monitor. Scoping session/public hearing is held by a DRI subcommittee and MEPA officials. Both the DRI subcommittee and MEPA officials conduct the hearing. State and local officials and other interested persons are invited to comment on the project.
7. DRI subcommittee meets to decide on comments to MEPA. Comments include either a recommendation that no EIR be prepared, or recommend a scope if an EIR is recommended or required.
8. Commission sends DRI subcommittee recommendation to MEPA.



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9. Secretary issues Certificate on ENF. If no EIR is required, state MEPA process and, therefore, joint review process is over. (Please note that the DRI process may continue even though the MEPA process is over.) If EIR is required, the JRP process continues.
10. Applicant files Draft Environmental Impact Report (DEIR) with MEPA, the Commission, and requisite other parties.
11. Commission files comments with MEPA on DEIR.
12. Secretary issues decision on DEIR.
13. Applicant files Final Environmental Impact Report (FEIR), or Supplemental DEIR if required.
14. Commission files comments with MEPA on FEIR (or SDEIR).
15. Secretary issues decision on FEIR (or SDEIR).
16. Commission holds a public hearing within 45 days of the Secretary's certification of the FEIR. The Commission may hold additional hearings as it deems necessary. (Please note that the DRI Subcommittee may hold public hearings as necessary throughout the review process.)
17. Commission issues a final decision on the proposed DRI.